Testimony of

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on

Internet Access and the Consumer

Before the

Senate Committee on
Commerce, Science and Transportation

April 13, 1999

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Summary of the Testimony of Bill Schrader Before the Senate Committee on Commerce, Science, and Transportation on Internet Access and the Consumer

I am Bill Schrader, Chairman and Chief Executive Officer of PSINet, the largest independent facilities-based Internet service provider in the United States. I am also testifying on behalf of the Commercial Internet eXchange, the largest trade association of Internet Service Providers, which PSINet co-founded in 1991.

Since the passage of the 1996 Act, the explosion of Internet access and Internet services to American consumers and businesses has been unprecedented in the history of communications. Never before has a communications technology or medium penetrated consumer markets, and offered such a rich variety of information opportunity, as the Internet has since the 1996 Act.

PSINet believes that the framework of the 1996 Act works well for the Internet, and that Congress should keep that framework. Congress made two decisions in the Act that are of critical importance to the unprecedented development of the Internet since February of 1996. First, Congress decided that the policy of the United States is to allow the highly competitive Internet markets to flourish with minimal regulation. Second, Congress decided to provide the local telecommunications monopolies with a specific path to deregulation that requires opening up their local networks. The 1996 Act safeguards competition, while providing the Bell Companies with the keys to their own deregulation. I urge you to stay the course of competition set out in the 1996 Act.

The Bell companies argue that their data service offerings should be deregulated so that they can offer ADSL services at a faster pace. But the Bell companies are already deploying DSL services spurred on by competitive pressures. Furthermore, this argument ignores the fact that the 1996 Act makes possible DSL offerings by competitive carriers. For example, yesterday PSINet announced a strategic partnership with Covad to offer DSL services directly to our customers. As local competition grows, many more of these opportunities will be available.

The Bell companies also argue that deregulation is of critical importance to accelerating the deployment of DSL services to rural America. This argument may make a good sound bite and appeal to Senators from rural states, but it makes little sense. ADSL does not work when a customer is more than 18,000 feet from the phone company central office, as is common in rural areas. Furthermore, if the Bell companies are so committed to rural deployment, why are they selling off significant portions of their rural exchanges? There is reason to be skeptical of Bell Company claims that "if you give us just one more regulatory break, we'll roll it out." This sort of compromise has been struck before and invariably the fabled services never quite materialize. In fact, other technologies, such as wireless and satellite delivery systems, may offer more significant potential for delivering high-capacity broadband service to high-cost areas of the country.

Third, some Bell Companies have attempted to justify regulatory relief on the basis of a

supposed "backbone capacity shortage." Nothing could be further from the truth. For example, PSINet's network traverses the entire country with more than 230 points of presence ("PoPs") in the U.S, and is but one of numerous backbones that do so. PSINet maintains PoPs in locations as diverse as Pascagoula, MS; Charleston, SC; Billings, MT; Wichita, KS; Wheeling, W.Va.; Fargo, ND; Medford, OR; Joplin, MO; and Amarillo and Abilene, TX. These places are as important to our network as New York, Atlanta, and Phoenix. Simply stated, PSINet's network is designed specifically to deliver broadband capacity, as demanded by customers throughout the country. PSINet and other Internet backbone providers are doing their part—bringing high-speed Internet access to rural, as well as urban America.

Indeed, several features of PSINet's network advance the goal of rural broadband service. For example, PSINet allows other ISPs to peer (exchange traffic, much like telecommunications interconnection) with more than 100 PSINet PoPs in the U.S. for free. These direct connections to more than 10% of the traffic on the Internet speed data traffic significantly by avoiding potential congestion points on the Internet. As PSINet's free peering arrangements illustrate, rural ISPs may access PSINet's backbone-quality services at numerous PSINet PoPs.

We congratulate you for exploring these important issues, and look forward to working with the Committee on broadband deployment.

Testimony of William L. Schrader, PSINet Inc. Before the

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INTRODUCTION

Good morning, Mr. Chairman, and thank you for the opportunity to appear before your Committee as it examines broadband communications and the Telecommunications Act of 1996 (the "1996 Act"). I am Bill Schrader, Chairman and Chief Executive Officer of PSINet. I am here to offer testimony on behalf of my company, PSINet Inc., and as a founding member of the largest trade association of ISPs, the Commercial Internet eXchange Association.

When I founded PSINet in the eighties, our company was the first commercial Internet service provider ("ISP") in the United States. We continue to be a leader in deploying high-speed, high-performance Internet services. PSINet, located in Herndon, Virginia, is now the largest independent facilities-based ISP in the United States. It is also the second largest ISP in Japan and the far east. PSINet's network today includes more than 230 points of presence ("PoPs") in the United States, and more than 500 PoPs worldwide, each designed and built specifically to handle Internet traffic from customers that employ a range of access methods. Submitted with this testimony is a route map showing PSINet's extensive network in the U.S.

I want you to know, and as the attached map shows, that Pascagoula, Charleston, Billings, Wichita, Wheeling, Fargo, Medford, Joplin, Amarillo, and Abilene are as important to our network as New York, Atlanta, and Phoenix. PSINet and our customers that are Internet service providers deliver Internet access to both business and individual residential users in these areas.

PSINet offers a full line of services to business, government, and educational customers, including 37 of the Fortune 100 companies, and federal agencies such as the Federal Trade Commission. The PSINet Carrier and ISP Services unit also offers consumer and commercial Internet services on a private label basis to a community of more than 6,000 U.S.-based ISPs, as well as some 500 large telecommunications providers.

PSINet engineers and executives have developed many of the most significant technical and product innovations in the Internet's history, and are at the forefront of broadband Internet backbone investment and development. PSINet also is actively exploring satellite and wireless delivery mechanisms in rural and other underserved areas. PSINet has a major stake in delivering to its customers throughout this country and the world high-quality, high-speed broadband communications capability.

Mr. Chairman, I am at this hearing today to tell you that the framework of the 1996 Act works, and that the Congress should keep to that framework. The Congress made two decisions that are of critical importance to the Internet, and that have provided significant support for the unprecedented development of the Internet since the passage of the 1996 Act. First, Congress decided that the policy of the United States is to allow the highly competitive Internet markets to flourish with minimal regulation. Second, Congress decided to provide the local telecommunications monopolies with a specific path to deregulation that requires opening up their local networks. The 1996 Act provides the Bell Companies with the keys to their own deregulation. I urge you to stay the course of competition set out in the 1996 Act.

I. THE 1996 ACT HAS CREATED A VIBRANT FRAMEWORK FOR INTERNET GROWTH AND COMPETITION

Since the passage of the 1996 Act, the explosion of Internet access and Internet services to American consumers and American businesses has been unprecedented in the history of communications. Never before has a communications technology or medium penetrated consumer markets, and offered such a rich variety of information opportunity, as the Internet has since the 1996 Act. The Congress should take pride in the legal framework that has supported this explosive growth. Some recent statistics provide a sense of the growth of narrowband Internet access. In 1996, just prior to passage of the Act, there were 9.5 million Internet user computers that store and relay Internet communications; today there are approximately 43.2 million user computers in the U.S. The ISP market in the United States today is made up of more than 6,000 ISPs serving more than 60 million Internet users. Competition and service for the consumer is abundant—approximately 96% of Americans today have a choice of at least four ISPs within their local calling area. And the market should continue to grow explosively; one recent study estimates that one-third of U.S. households have Internet access today, and that two-thirds of U.S. households will obtain access by the year 2003.

As you consider what is the best set of rules for accelerating broadband deployment of local telecommunications services, think about whether you want rules that further entrench the Bell Companies in their local telecommunications monopolies or whether you want rules that encourage a competitive structure for the local telephone system and that support a competitive Internet. In contrast to the Internet, today's local telecommunications market is marked by the absence of competition. In fact, incumbent local exchange carriers control 99% of the country's local service business. PSINet is one of the largest customers for each of the Bell Companies, and faces on a daily basis the consequences of the lack of competition in the local telecommunications

market. Lack of local telecommunications competition produces fewer telecom choices, sub-optimal telecom offerings, and overpriced telecommunications services for Internet companies like PSINet, and ultimately for each and every Internet user in America. However, only yesterday, PSINet announced a strategic partnership with Covad to offer DSL services directly to our customers. As local competition grows, many more of these opportunities will be available.

I know based upon our experience dealing with monopolists in the local telecommunications market, as opposed to competitive ISPs in the Internet market, that the pro-competitive provisions of the 1996 Act are critical for broadband services such as DSL to reach their potential. This core feature of the Act must be allowed to work.

There is absolutely no reason to exempt the services offered from monopoly facilities from the pro-competitive provisions of the 1996 Act. The incumbent's underlying local facilities used to provide DSL services are fundamentally part of its monopoly network, and have been paid for by the captive ratepayer. The 1996 Act's obligations for monopolies—open access to unbundled elements of the incumbent's network, cost-based interconnection, reciprocal compensation, and flexible collocation arrangements—are all necessary for competing DSL providers to gain a foothold in the market.

Consumers have benefited enormously from competition in the "narrowband" Internet. Once competition for broadband services begins to take hold in local telecommunications markets, the American consumer will be amazed at what the Internet/telecommunications industry and the 1996 Act can offer. Congress should stay the course and keep the 1996 Act intact to do its part to support the arrival of that competitive broadband market of tomorrow.

The principal justification to compromise on the pro-competitive provisions of the 1996

Act is highly suspect. Bell Companies claim that such relief will greatly hasten their deployment of DSL services. However, due largely to competitive pressures, the Bell Companies *already* have significantly and aggressively rolled out ADSL products. The current regulatory environment clearly has not stopped the Bell Companies from entering the broadband market.

So, some Bell companies—aware perhaps of the states represented on this Committee—argue that removing pro-competitive safeguards will accelerate deployment of their broadband ADSL services in rural areas. Now this argument makes a good sound bite, and I imagine that it is very appealing to Senators from rural states. But as I have learned by leading my company, and with a thorough understanding of high-speed Internet technologies, I have to tell you that it makes very little sense. ADSL is poorly suited to serving rural customers. It does not work when a customer is more than 18,000 feet from the provider's central office, as is common in rural areas. Furthermore, Bell Companies such as U.S. West have sold off many of their more rural exchanges.

I am also skeptical of Bell Company claims that "just one more regulatory break, and we'll roll it out." This sort of compromise has been struck before and, invariably, the fabled services never quite materialize. Instead, the Congress should stick to its commitment that competition, not compromise, will get the Bell Companies to hasten deployment. Compromises made in the name of helping rural Americans may never, in fact, deliver DSL services to those same Americans.

I would also add that compromises on the provisions of the 1996 Act are inadvisable because the 1996 Act already provides a sensible framework for Bell Company deregulation in this area. The 1996 Act does not saddle Bell Companies with any regulations that they do not

have the power to release themselves from. The 1996 Act does, however, provide that such deregulation be preceded by specific and significant demonstrations from the Bell Companies that they have, indeed, opened their local monopolies to competition. The Congress should let the Bell Companies deregulate themselves, as the 1996 Act provides.

II. THE INTERLATA RELIEF THE BELLS PROPOSE WOULD RETARD, RATHER THAN ADVANCE, COMPETITIVE, COST-EFFECTIVE BROADBAND SERVICES

Under the 1996 Act, interLATA relief and local competition go hand-in-hand, which is good for the deployment of competitive broadband services. The 1996 Act offers the Bell Companies an enormous. incentive actually to open their local market monopolies. The incentive is entering the interLATA market—both the traditional voice long distance market and the Internet backbone and interLATA information services markets. Congress was well aware in 1996 that the restriction applies across all of the interLATA services.

Providing the Bell Companies with premature interLATA relief before they fully open their local markets would fatally undermine the local competition provisions of the 1996 Act. For example, what Bell Company would have any real incentive to satisfy the Act's local competition provisions if it were allowed into the interLATA data market today?

Some Bell Companies propose allowing interLATA data entry as a 271 "compromise." But “a bit is a bit,” whether it's voice or data. Offering interLATA relief to the incumbent monopolist gives the incumbent every incentive to shift its traffic dramatically away from the incumbent’s PSTN and onto its interLATA “data” network. That would produce a variety of significant negative impacts, including ending the Bell Companies' incentives to open their facilities to local competition. Therefore, the incentives of the 1996 Act designed to open the

local monopolies cannot be compromised. Again, I urge the Congress to stay the course on the 1996 Act.

Further, some Bell Companies have attempted to justify their desire for interLATA relief on the basis of an alleged "backbone capacity shortage." As the FCC recently confirmed, nothing could be further from the truth. PSINet maintains more than 230 points of presence ("PoPs") in the U.S., including the communities I mentioned earlier, that are connected to each other and to the Internet by T1 and T3 dedicated lines, augmented by 10,000 mile OC-48 backbone arrangements. Simply stated, PSINet's network is designed specifically to deliver enormous. backbone capacity, as demanded by the customer. Each PoP is built to a precise, full-service standard to allow customer choice of access method—dial-up analog, ISDN, or dedicated lines—so that it serves both large and small customers. PSINet's national PoP deployment illustrates how Internet backbone providers are serving smaller communities with high-speed network access points, even if that community may not be able to support a large DS3 PoP. PSINet and other Internet backbone providers are doing their part—bringing high-speed Internet access to rural, as well as urban America. As the attached map shows, the PSINet network traverses the entire country.

Several features of PSINet's network advance the goal of rural broadband service. For example, PSINet allows other ISPs to peer (exchange traffic, much like telecommunications interconnection) with more than 100 PSINet PoPs in the U.S. for free. These direct connections to more than 10% of the traffic on the Internet speed data traffic significantly by avoiding potential congestion points on the Internet. As PSINet's free peering arrangements illustrate, rural ISPs may access PSINet's backbone-quality services at numerous. PSINet PoPs.

Keep in mind, as you think of our network, that in the highly competitive Internet market, PSINet is only one of *many* ISPs that provide backbone access and services to all Americans. Other companies competing in this market include: AT&T, MCI WorldCom, Sprint, Qwest,

Level Three, and LCI. Further, other technologies than Bell Company wireline facilities, such as wireless and satellite delivery systems, offer tremendous. potential to deliver additional high-capacity broadband service to high-cost areas of the country.

III. The Internet Should Remain Free of Encroaching Governmental Regulation

As I indicated above, the other message I bring to you today is that the other fundamental aspect of the 1996 Act is the choice to keep the competitive Internet industry free from government regulation. I urge you to stay that course, as well.

In contrast to the local exchange market, today's Internet market is highly competitive and dynamic. Backbone providers may build high-speed capacity, or acquire or lease it from long distance providers or providers of newer transmission methods. Unlike the local telecommunications market, no Internet provider today enjoys a monopoly on services, so that issues of reliability, speed, and quality of service are key determinants to the survival and success of each provider, whether one looks at the Internet backbone providers or the local dial-up ISP providers.

Indeed, the innovation driving much of today's Internet stems from the market imperative for competing providers to develop new and better approaches to enhance speed, reliability, and customer satisfaction. This market-based innovation furthers the highest objectives of Section 706 of the 1996 Act by promoting advanced services through competitive markets.

ISPs have long been responsible for the technological innovations and market-based Internet solutions for their customers, including broadband services. The remarkable success of the Internet, however, flourishes because there are a multitude of innovative providers and because the market, and not regulation, dictates success. The Congress, as it did with the 1996 Act (*i.e.*, Section 230), should keep to that vision now.